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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,639	06/30/2003	Myung-Ah Kang	SEC.1051	8355
20987	7590	03/07/2006	EXAMINER	
VOLENTINE FRANCOS, & WHITT PLLC ONE FREEDOM SQUARE 11951 FREEDOM DRIVE SUITE 1260 RESTON, VA 20190			RUGGLES, JOHN S	
			ART UNIT	PAPER NUMBER
			1756	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/608,639

Applicant(s)

KANG ET AL.

Examiner

John Ruggles

Art Unit

1756

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: none.  
Claim(s) objected to: none.  
Claim(s) rejected: 2-12 and 14-20.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

**S. ROSASCO  
PRIMARY EXAMINER  
GROUP 1500**

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Examiner, Art Unit 1756  
571-272-1390

Continuation of 5. Applicant's reply has overcome the following objections and rejection(s): the objections of the specification and Figures 1A-1D and 4, as well as the rejection of claims 7-13 and 16-20 under the first paragraph of 35 USC 112 and the rejection of claims 2-20 under the second paragraph of 35 USC 112; EXCEPT for some parts of the second paragraph rejection. Specifically, the 35 USC 112 second paragraph rejection(s) maintained are those that require interpretation in claim 7 line 16 and in claim 14 line 9 of "at areas" (plural) to mean --at AN area[[s]]-- (singular), in claim 16 line 9 of "are not formed at areas" to mean --[[are]] IS not formed at AN area[[s]]--, and in claim 11 line 2 of "etching a portion of the material comprises forming an auxiliary pattern" to mean --etching [[a portion of]] the LAYER OF material comprises forming [[an]] THE auxiliary pattern--, all of which are maintained from the previous FINAL rejection mailed on 11/18/05 (claims 8-12 depend on claim 7, claims 2-6 and 15 depend on claim 14, and claims 17-20 depend on claim 16). The previously indicated interpretation of intended use limitations in independent claims 7, 14, and 16 have NOT been overcome by Applicants' currently filed amendments and accompanying arguments and are also maintained. Of course, the current cancellation of claim 13 has also overcome all previous rejections thereof. In order to maintain the finality of the 11/18/05 Office action and also due to Applicants' current entered amendment of instant claim 7, the previous rejection of claim 7 under the second paragraph of 35 USC 112 due to a problem with plural "sides" of the trench being defined by a single "sidewall surface of the substrate" (as set forth in the last paragraph on page 6 of the 11/18/05 Office action) is also withdrawn.

Continuation of 11. does NOT place the application in condition for allowance because: the other objections and rejections set forth in the 11/18/05 Office action that are not listed above as having been overcome by the current entered amendment have been maintained, since Applicants' arguments in regard to these remaining objections and rejections are not persuasive for at least the same reasons as are already of record.

Furthermore, Applicants' statement at page 11 of 15 (in the last sentence of the first full paragraph on that page) that the Examiner previously conceded or even hinted that any feature in claims 7, 14, or 16 was "patentable" is clearly in error. Instead, the statement regarding these claims at the bottom of page 14 in the 11/18/05 Office action merely points to Applicants' recited connection between the photoresist pattern intended to be made from the structure of the auxiliary pattern on the instant claimed PEPSM, in support of a previous objection to Figure 4. This should NOT be misunderstood as a concession of any "patentable" subject matter, as currently argued by Applicants. In particular, the intended use statements of the instant claims have NOT been found sufficient to distinguish these claims over the prior art teachings to one of ordinary skill in the art.



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